

ORDINANCE NO. 1430

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BALDWIN PARK, CALIFORNIA AMENDING THE BALDWIN PARK MUNICIPAL CODE, TITLE XV, LAND USAGE, CHAPTER, 153, ZONING CODE, SECTIONS 153.040.020, 153.120.350, AND 153.150.100, AND 153.220.050 RELATING TO ACCESSORY DWELLING UNITS – ZONING CODE AMENDMENT CASE NUMBER AZC 186

WHEREAS, Baldwin Park Municipal Code Title VI, Land Usage, Chapter 153, Zoning Code, implements the City's General Plan, establishing land use and development regulations in the City, which includes regulations governing the establishment of residential second units in the R-1, R-G, and R-3 zoning districts in accordance with Government Code Section 65852.2; and

WHEREAS, on January 1, 2017 certain amendments to Section 65852.2 and new regulations in Section 65852.22 of the California Government Code went into effect replacing Government Code regulations for residential second units with new regulations requiring cities to permit "accessory dwelling units," subject to ministerial approval and allowing cities to adopt by ordinance land use regulations designating allowable zones and development standards for "accessory dwelling units."; and

WHEREAS, the City finds it necessary to amend the Zoning Code to regulate the location and development of "accessory dwelling units" within the City; and

WHEREAS, pursuant to California Government Code Section 65854, the Planning Commission duly noticed and agendized a public hearing and conducted the public hearing at on this matter on August 22, 2018, continued the public hearing to the regularly scheduled meeting of September 26, 2018, and further continued the public hearing to October 24, 2018 and adopted Planning Commission Resolution 18-18 recommending that the City Council approve Zoning Code Amendment Case Number AZC 186 and adopt Ordinance No 1430; and

WHEREAS, the City Council held a duly noticed public hearing on Zoning Code Amendment No. AZC 186 to consider adoption of Ordinance No. 1430 on September 5, 2018 at which time it continued the public hearing to the regularly scheduled meeting of October 3, 2018; and

WHEREAS, the City Council held a duly noticed public hearing on Zoning Code Amendment No. AZC 186 to consider adoption of Ordinance No. 1430 on November 14, 2018 at which time it considered all evidence presented, both written and oral.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALDWIN PARK, CALIFORNIA, AS FOLLOWS:

SECTION 1. The foregoing recitations are hereby adopted by the City Council as findings. Based on those findings, the City Council determines the public health, safety and general welfare of the City of Baldwin Park, its residents and property owners can benefit by amending the Baldwin Park Municipal Code (BPMC) to allow accessory dwelling units with development standards, and it is in the best interest of the community to amend the BPMC accordingly.

SECTION 2. Based on the foregoing findings and determinations, Baldwin Park Municipal Code Title XV, Land Usage, Chapter 153, Zoning Code, Subchapter 153.040, "Residential Zones," Section 153.040.020, "Use Regulations Table 153.040.020," "Permitted and Conditionally Permitted Uses within Residential Zones," is amended and enacted as follows:

TABLE 153.040.020 Permitted and Conditionally Permitted Uses within Residential Zones	P CUP A --	Permitted use Conditional use permit required Accessory use Use not allowed			
	R-1- 7,500	R-1	R-G	R-3	Additional Regulations
<u>Accessory Dwelling Units</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>153.120 Part 11</u>
<u>Accessory Dwelling Units – Junior</u>	<u>P</u>	<u>P</u>	<u>=</u>	<u>=</u>	<u>153.120 Part 11</u>
Accessory Structures	P	P	P	P	153.040.070
Adult Day Care Facilities	CUP	CUP	CUP	CUP	
Boardinghouses	--	--	--	--	
Child Day Care Homes – Large Family	P	P	P	P	153.120 Part 6
Child Day Care Homes – Small Family	P	P	P	P	
Condominiums	--	--	P	P	See Chapter 153.210, Part 2 – Design Review
Dwellings, Duplex	--	--	P	P	See Chapter 153.210, Part 2 – Design Review
Dwellings, Multi-Family	--	--	P	P	See Chapter 153.210, Part 2 – Design Review
Dwellings, Single-Family	P	P	P	P	See Chapter 153.210, Part 2 – Design Review
Educational Institutions, private	--	CUP	CUP	CUP	153.040.030
Educational Institutions, public	P	P	P	P	

Home Occupations ¹	A	A	A	A	153.120 Part 8
Hospitals	--	--	CUP	CUP	153.040.030
Mobile Homes	P	P	P	P	
Mobile Home Parks	CUP	CUP	CUP	CUP	153.040 Part 4
Off-Street Parking Facilities	CUP	CUP	CUP	CUP	153.150.040, 153.150.050
Parking Lots (associated with nonresidential use)	CUP	CUP	CUP	CUP	153.160.050
Places of Assembly	--	CUP	CUP	CUP	153.040.030
Recreational Facilities	CUP	CUP	CUP	CUP	
Residential Care Homes (6 or fewer residents)	P	P	P	P	
Residential Care Facilities	CUP	CUP	CUP	CUP	153.040.030

SECTION 3. Based on the foregoing findings and determinations, Baldwin Park Municipal Code Title XV, Land Usage, Chapter 153, Zoning Code, Subchapter 153.040 "Residential Zones," Section 153.220.050 "D" "Definitions," is amended and enacted as follows:

DWELLING UNIT. Any building or portion thereof designed for living and sleeping purposes that contains independent cooking and sanitation facilities.

DUPLEX DWELLING UNIT. A building containing two dwelling units designed for the independent occupancy of two households.

MULTIPLE-FAMILY DWELLING UNIT. A building or portion thereof containing three or more dwelling units designed for the independent occupancy of three or more households.

PRIMARY DWELLING UNIT. An existing single-family residential structure on a single lot with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities occupied.

SINGLE-FAMILY DWELLING UNIT. A detached building containing no more than one dwelling unit which, regardless of form of ownership, is designed and/or uses to house not more than one household, including all domestic employees for such household.

SECTION 4. Based on the foregoing findings and determinations, Baldwin Park Municipal Code Title XV, Land Usage, Chapter 153, Zoning Code, Subchapter 153.120, "Standards for Specific Land Uses and Activities, Part 11. Second Dwelling Units" is rescinded and replaced in its entirety as follows:

PART 11 - Accessory Dwelling Units

Section 153.120.350 – Intent and Purpose

These regulations are provided pursuant to Government Code §§65852.2, and 65852.2, and 65852.22 regulate the establishment and use of accessory dwelling units and to establish standards to regulate the placement and design of accessory dwelling units in compliance with the Government Code. In addition to compliance with all other applicable

statutes, ordinances and regulations, the regulations of Section 153.120.360, "Use Regulations and Development Standards," shall apply to all accessory dwelling units.

Section 153.120.360 – Use Regulations and Development Standards

A. **Applicability.** Accessory dwelling units shall be permitted as a matter of right, without any required discretionary review or permit, in conjunction with any existing single-family dwelling unit in the R-1 7,500, R-1, R-G and R-3 zones. A maximum of one accessory dwelling unit may be permitted on a residential lot containing no more than one existing single family dwelling unit. An accessory dwelling unit shall not be permitted on any residential lot which is the subject of any pending written notice(s) of code violations or enforcement actions by the city.

Due to the potential impact to traffic flow and public safety, areas deemed unsuitable for the development of accessory dwelling units include the following and are not permitted for creation of an accessory dwelling unit:

1. A lot which fronts a substandard street.
2. A lot located within 300 feet of a school bus stop.
3. A lot located on a street with permit parking restrictions.

B. **Definitions.** For purposes of this section the following terms and phases shall be defined as described herein:

"Accessory dwelling unit" shall mean either:

1. A newly constructed dwelling unit, as that term is defined in this section, which is either detached from or attached to a primary single family dwelling unit and located on a lot with no more than one existing single-family dwelling unit; or
2. A separate dwelling unit created within the existing living area of a primary single-family dwelling unit (as that term is defined in BPMC 153.220.010) or within the existing walls of an existing accessory structure (as that term is defined in this section), that is no more than 50% of the area of the primary single family dwelling unit with a maximum of 600 square feet containing no more than one bedroom, on a lot with no more than one single-family dwelling and which provides complete independent living facilities for one or more persons including permanent provisions for a separate entrance, and separate living, sleeping, eating, cooking, and sanitation facilities;
3. Accessory dwelling units may include an efficiency unit as defined in Section 17958.1 of Health and Safety Code or a manufactured home as defined in Section 18007 of the Health and Safety Code.

"Accessory dwelling unit – junior" shall mean a unit that is no more than 500 square feet in size, created entirely within the existing living area of a primary

single-family dwelling unit as that term is defined in BPMC 153.220.010 located on a lot with no more than one single-family dwelling, and which incorporates an existing bedroom. A junior accessory dwelling unit shall be provided with a separate exterior entrance and shall provide interior entry to the accessory dwelling unit from the main living area of the primary residential structure. Junior accessory dwelling units may share sanitation facilities with the existing single-family structure. Junior accessory dwelling units shall provide cooking facilities which include at a minimum: (1) a sink with a maximum waste line diameter of 1.5 inches, (2) a cooking facility with appliances that do not require electrical service greater than 120 volts or natural or propane gas, (3) a food preparation counter, and (4) storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

“Accessory structure” shall mean an existing detached structure with a roof such as a garage, pool house, or carriage house located on the same lot as a single-family dwelling unit. Accessory structure shall not include an attached garage.

“Newly constructed” means the construction of new walls and roofs, either attached to an existing single-family dwelling unit or existing accessory structure, or detached from an existing single-family dwelling unit on a lot.

“Public Transit” means a system of large-scale public transportation in a given metropolitan area, typically comprising buses, subways, and elevated trains.

“Substandard Street” For the purposes of allowing/disallowing Accessory Dwelling Units, means a public or private street with a width of 30 feet or less measured from the faces of the curbs, thus unable to accommodate street parking and/or passage for through traffic and emergency services.

“Tandem parking” means two or more automobiles parked on a driveway, or in any other parking location on a lot, lined up behind one another.

B. Allowable density applies. The accessory dwelling unit shall not be calculated as part of the allowable density for the lot upon which it is located, unless and until, additional dwelling units are constructed on the same lot upon which the primary single-family dwelling unit and the accessory dwelling unit are located, in which case the accessory dwelling unit shall be calculated as part of the allowable density.

C. Occupancy and Sale Restrictions.

1. The owner of the property on which an accessory dwelling unit is constructed shall reside within the primary or accessory dwelling unit. Where a property is held in a trust, occupancy by either the settlor, trustee, co-trustee, or any beneficiary of the trust shall be considered owner occupancy.

The accessory dwelling unit may not be sold separately from the primary single-family dwelling on the lot. A deed restriction, in a form approved by the City

Attorney, shall be recorded by the applicant to run with the land to assure compliance with the above restrictions and shall be enforceable against future purchasers.

2. The accessory dwelling unit may be rented. The rental of an accessory dwelling unit shall be for a period of no less than 30 days. If the unit is rented, the property owner shall obtain a business license.

D. Lot and unit size requirements. The following lot and unit size regulations apply.

1. For all newly constructed accessory dwelling units.

Lot Size in Square Feet	Maximum Allowable ADU /Attached to Existing Single Family Dwelling	Maximum Allowable ADU / Detached from Existing Single Family Dwelling
5,000 or less	50% of living area of existing dwelling up to 600 sf	600 sf
5,001 - 8,000	50% of living area of existing dwelling up to 1,000 sf	1,000 sf
8,001 and over	50% of living area of existing dwelling up to 1,200 sf	1,200 sf

2. For accessory dwelling unit constructed within existing walls of a single family dwelling or an accessory structure.

a. No minimum lot size requirement applies to accessory dwelling units constructed within the walls of the existing living area of a primary existing single family dwelling unit or within the existing walls of an accessory structure, as that term is defined in this section.

b. An area equal to 50% of the existing living area up to a maximum of 600 square feet may be constructed as an accessory dwelling unit within the existing walls of a primary single family dwelling unit. A maximum area of 600 square feet may be constructed as an ADU within the existing walls of an existing accessory structure.

E. Location. Each newly constructed detached accessory dwelling unit shall be located within the rear 50 percent of the lot. Each newly constructed attached dwelling unit shall be located to the rear of the front elevation of the existing single family dwelling unit.

F. Minimum development standards apply. Each newly constructed accessory unit shall meet all minimum development standards for the zoning district in which it is located, and as required in this section including, but not limited to, setbacks,

lot coverage and distance from animal-keeping areas. For any newly constructed accessory dwelling unit constructed above a garage a minimum setback of 5' is required from the side and rear property line.

If any development standard in this section varies from that provided for the zoning district in which the accessory dwelling unit is located, the development standard of in this section shall prevail.

G. Building code. The accessory dwelling unit shall meet all building code requirements.

H. Maximum height. Each newly constructed detached or attached accessory dwelling unit shall be limited in height to one story, with a maximum height not to exceed 15 feet at peak of roof or 12 feet for a flat-roofed structure and the roof style and pitch shall match the existing single family structure. Each newly constructed accessory dwelling unit constructed above an existing garage or carport shall not exceed a maximum height of 27 feet and the roof style and pitch shall match the existing single family structure.

For an accessory dwelling unit attached to the existing primary single-family unit, the height shall not exceed the height of the existing structure, and the roof pitch shall match the existing structure.

I. Parking.

1. One parking space shall be provided for the accessory dwelling unit, in addition to any other parking required for the primary unit. An existing garage, carport or other form of covered parking demolished as part of the construction of an accessory dwelling unit shall be replaced. Parking may be configured as tandem parking or be located within the rear setback area of a lot. Replacement of covered parking demolished as part of the creation of an accessory dwelling unit may be provided with a mechanical automobile lift provided the highest point of the auto when lifted remains below the lowest roofline on the property.

2. Parking for the accessory dwelling unit and/or replacement parking is not required when any accessory dwelling unit is located:

- a. Within ½ mile of public transit; or
- b. Within an architecturally and historically significant historic district;
or
- c. Within an existing accessory structure; or
- d. In an area where on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or
- e. In an area where a car share vehicle is located within 1 block of the accessory dwelling unit.

3. Each standard surface parking space shall have a minimum width of 10 feet, unless it is adjacent to a structure, such as a fence or wall, and then shall have a

minimum width of 10 feet 6 inches; shall have a minimum length of 20 feet; be located so that an automobile is not required to back onto a public street; and maintain at least 24 feet of backup space directly behind each parking space.

4. Each parallel surface parking space shall have a minimum width of 10 feet and a minimum length of 23 feet.

5. Each enclosed garage parking space shall have a minimum width of 10 feet and a minimum length of 20 feet.

J. Vehicular Access. The accessory dwelling unit shall utilize the same vehicular access that serves the existing main dwelling unit, unless the accessory dwelling unit has access from an alley contiguous to the lot.

K. Similar architectural features. A newly constructed accessory dwelling unit shall incorporate the same or similar architectural features, building materials and color as the primary dwelling unit on the property. These features shall include, but are not limited to, roofing material, roof design, fascia, exterior building finish, color, exterior doors and windows including, but not limited to, ratios of window dimensions (e.g., width to height) and window area to wall area, garage door and architectural enhancements.

L. Mechanical Equipment. All new mechanical equipment associated with a newly constructed accessory dwelling unit shall be located on the ground no less than three feet from the side and rear property lines. Any existing equipment located on the roof or exterior walls of the existing single-family dwelling unit or accessory structure shall be provided with a decorative screen to shield such equipment from view and shall be placed at least six inches below the top of the lowest building parapet or decorative screen. No plumbing line shall be placed upon the exterior wall of a structure unless such line is enclosed or otherwise screened from view.

M. Permit Requirements. The following permit requirements shall apply to all accessory dwelling units in the city:

1. Accessory dwelling units and junior accessory dwelling units created within the existing living area of a primary single-family dwelling or within the existing walls of an existing accessory structure shall be subject to approval of a building permit with no further review by the Community Development Director; provided, that the proposed accessory dwelling unit has independent exterior access and the side and rear setbacks are sufficient for fire safety.

2. Newly constructed detached or attached accessory dwelling units shall be subject to ministerial review of an application submitted to the Community Development Department containing the following information:

- a. A fully dimensioned site plan containing the following information:
 - i. Name and address of the applicant and of all persons owning any or all of the subject property.

- ii. Evidence that the applicant is the owner of the property involved or has written permission of owner or owners to make such application.
 - iii. Address and assessor parcel number(s) of subject property.
 - iv. Property dimensions and square footage of the subject property.
 - v. The use, location and size of all existing buildings and structures on the property and the proposed accessory dwelling unit, yards, driveways, access and parking areas, landscaping, walls or fences, and other similar features.
- b. A fully dimensioned floor plan of the existing residence and the proposed accessory dwelling unit.
 - c. A roof plan for all existing and proposed structures.
 - d. A set of fully dimensioned building elevations of all sides of all existing structures on the property and the proposed accessory dwelling unit.

SECTION 5. Based on the foregoing findings and determinations, Baldwin Park Municipal Code Title XV, Land Usage, Chapter 153, Zoning Code, Subchapter 153.150, "Off-Street Parking and Loading," Section 153.150.100, "Parking Lot and Structure Design Standards" is amended and enacted as follows:

D. Tandem parking prohibited. Each parking space shall be accessible without requiring the movement of another vehicle. Except as provided for in Section 153.120.360.(I), tandem parking arrangements are specifically prohibited.

SECTION 6. CEQA. City Council approval of Zoning Code Amendment Case Number AZC 186 and adoption of Ordinance No. 1430 are not subject to the California Environmental Quality Act (CEQA) pursuant to Article 5, Section 15060(c)(2), which determines a project is not subject to CEQA if "the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment" and 15060(c)(3) "the activity is not a project as defined in Section 15378." The proposed amendment does not meet the criteria defined in Section 15378. Furthermore, the proposed amendment is exempt from the review for exemption pursuant to Section Article 5, 15061(b)(3), "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

SECTION 7. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.


SECTION 8. To the extent the provisions of the Baldwin Park Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as

they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION 9. This ordinance shall be effective and be in full force and operation from and after thirty (30) days after its final reading and adoption.

First read at a special meeting of the City Council of the City of Baldwin Park held on the 14th day of November and adopted and ordered published at a regular meeting of said Council on the 5th day of December, 2018.

PASSED, APPROVED, AND ADOPTED this 5th day of December, 2018.



MANUEL LOZANO
MAYOR

ATTEST:
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES } SS:
CITY OF BALDWIN PARK }

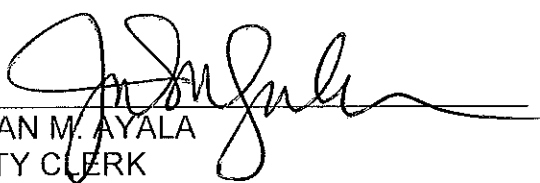
I, JEAN M. AYALA, City Clerk of the City of Baldwin Park, do hereby certify that the foregoing ordinance was introduced and placed upon its first reading at a special meeting of the City Council on November 14, 2018. Thereafter, said **Ordinance No. 1430** was duly approved and adopted at a regular meeting of the City Council on **December 5, 2018** by the following vote to wit:

AYES: COUNCIL MEMBERS: Avila, Garcia, Hernandez, Lozano, Pacheco

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None



JEAN M. AYALA
CITY CLERK